

AGREEMENT

THIS AGREEMENT dated this ____ day of _____, 2003, by and between LEON COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the "County" and _____, hereinafter referred to as the "Contractor."

WHEREAS, the County has determined that it would be in the best interest of the citizens of Leon County, Florida, that the County be able to utilize the services of private persons when such services cannot be reasonably provided by the County; and

WHEREAS, the County has determined that it would be better to contract for these services than to hire the necessary personnel to satisfy the needs of the County; and

WHEREAS, in order to secure the lowest cost for these services, the County has sought and received competitive bids from contractor for such services.

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES TO BE PROVIDED

The Contractor hereby agrees to provide the following services to the County: replacement of existing cross drain, construction of a new concrete ditch, installation of a new pipe system with ditch bottom inlets, drainage outfall drainage structure, erosion control, and earth fill for Talpeco Road Channel Slope Stabilization, in accordance with the plans and specifications for Leon County Bid BC-04-02-03-36, said bid being incorporated into this agreement as if fully set out herein.

2. WORK

Any work to be performed shall be upon the written request of the County Administrator or his representative, which request shall set forth the commencing date of such work and the time within which such work shall be completed.

The performance of Leon County of any of its obligations under the purchase order or agreement shall be subject to and contingent upon the availability of funds lawfully expendable for the purposes of the purchase order or agreement for the current and any future periods provided for within the bid specifications.

3. TIME AND LIQUIDATED DAMAGES

The work to be performed under this contract shall be commenced within fifteen (15) days of the Notice to Proceed. All work to be performed under this Contract shall be completed within ninety (90) consecutive calendar days of the Notice to Proceed. If the work to be performed under this Contract is not completed within the time set forth above, or within such extra time as may be granted by the County, the Contractor shall be deemed to be in default. For each day the Contractor is in default, the Contractor or its Surety shall pay to the County, not as a penalty, but as liquidated damages, the sum of \$676.

Permitting the Contractor to continue and finish the work or any part of it after the expiration of the contract time allowed, including extensions, if any, shall in no way act as a waiver on the part of County of the liquidated damages due under the contract.

4. CONTRACT SUM

The Contractor agrees that for the performance of the services as outlined above, it shall be remunerated by the County according to the unit prices contained in the Contractor's bid proposal and attached hereto as Attachment 1.

5. PAYMENTS

The County will make such payments within thirty (30) days of submission and approval of invoice for services.

6. STATUS

The contractor at all times relevant to this Agreement shall be an independent contractor and in no event shall the Contractor nor any employees or sub-contractors under it be considered to be employees of Leon County.

7. INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

A. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. (Non-owned, Hired Car).
3. Workers' Compensation and Employers Liability: Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws and Employer's Liability with a limit of \$500,000 per accident, \$500,000 disease policy limit, \$500,000 disease each employee. Waiver of Subrogation in lieu of Additional Insured will suffice.

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

C. Other Insurance Provisions The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages (County is to be named as Additional Insured).
 - a. The County, its officers, officials, employees and volunteers are to be covered as insureds as respects; liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protections afforded the County, its officers, officials, employees or volunteers.

- b. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the county, its officers, officials, employees or volunteers.
- d. The Contractor's insurance shall apply separately to each insured against whom claims is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the County.

- D. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.
- E. Verification of Coverage. Contractor shall furnish the County with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the County before work commences. The County reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. Subcontractors. Contractors shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

8. PERMITS

The County shall pay for all necessary permits as required by law.

9. LICENSES

The Contractor shall be responsible for obtaining and maintaining his city or county occupational license and any licenses required pursuant to the laws of Leon County, the City of Tallahassee, or the State of Florida. Should the Contractor, by reason of revocation, failure to renew, or any other reason, fail to maintain his license to operate, the contractor shall be in default as of the date such license is lost.

10. ASSIGNMENTS

This Contract shall not be assigned or sublet as a whole or in part without the written consent of the County nor shall the contractor assign any monies due or to become due to him hereunder without the previous written consent of the County.

11. PERFORMANCE BOND

A Performance Bond in the amount of 100% of the estimated project cost shall be supplied by the Contractor prior to contract execution. Also, a payment and material bond for the contract amount

shall be supplied by the Contractor at the same time.

"Performance and Payment and Material Bonds shall provide that, in the event of non-performance on the part of the Contractor the bond can be presented for honor and acceptance at an authorized representative or institution located in Tallahassee, Florida. The performance bond **must** contain a clause stating the following:

In the event of non-performance on the part of the contractor this performance / payment and materials bond can be presented for honor and acceptance at _____ (address) _____, which is located in Tallahassee, Florida. "

12. INDEMNIFICATION

The Contractor agrees to indemnify and hold harmless the County, its officers and employees, from all liabilities, losses and costs, including, but not limited to reasonable attorney's fee, to the extent caused by the negligence or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this agreement. The County may, at its sole option, defend itself or allow the Contractor to provide the defense. The Contractor acknowledges that ten dollars (\$10.00) of the amount paid to the Contractor is sufficient consideration for the Contractor's indemnification of the County.

13. MINORITY BUSINESS ENTERPRISE (M/WBE) PARTICIPATION

The Contractor shall meet or exceed the M/WBE participation levels stated in the M/WBE Participation Statement included as part of the bid response for this project, except when the County Good Faith Committee approves an exception.

Any "Good Faith Statement" provided by a Contractor shall follow the requirements of the Florida Statutes, and must demonstrate through documentation that every reasonable effort has been made to achieve the requested percentage.

For those M/WBE firms listed in their bid, Contractors shall be responsible for securing proof of their M/WBE certification and providing copies to the County M/WBE Office.

Also required is a monthly reporting system of the work done by and payments made to certified minority business enterprises as a part of this project. The reports shall detail each invoice submitted to the County and a break down of payments to all subcontractors therein by M/WBE classification.

14. AUDITS, RECORDS, AND RECORDS RETENTION

The Contractor agrees:

- a. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the County under this contract.
- b. To retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this contract.
- c. Upon completion or termination of the contract and at the request of the County, the

Contractor will cooperate with the County to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in paragraph 1 above.

- d. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the County.
- e. Persons duly authorized by the County and Federal auditors, pursuant to 45 CFR, Part 92.36(I)(10), shall have full access to and the right to examine any of provider's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
- f. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

15. MONITORING

To permit persons duly authorized by the County to inspect any records, papers, documents, facilities, goods, and services of the provider which are relevant to this contract, and interview any clients and employees of the provider to assure the County of satisfactory performance of the terms and conditions of this contract.

Following such evaluation, the County will deliver to the provider a written report of its findings and will include written recommendations with regard to the provider's performance of the terms and conditions of this contract. The provider will correct all noted deficiencies identified by the County within the specified period of time set forth in the recommendations. The provider's failure to correct noted deficiencies may, at the sole and exclusive discretion of the County, result in any one or any combination of the following: (1) the provider being deemed in breach or default of this contract; (2) the withholding of payments to the provider by the County; and (3) the termination of this contract for cause.

16. FINAL INSPECTION

The Contractor shall maintain all work in first-class condition until it has been completed as a whole and been accepted by Leon County. Upon seven (7) days notice from the Contractor of completion of this project, the Director of Engineering Services will set up a semi-final inspection with the Contractor, the Chief of Construction Management, the Chief of Engineering, the Project Engineer, and himself.

If, at the semi-final inspection, all construction provided for and contemplated by the contract is found completed to the County's satisfaction, such inspection shall constitute the final inspection. If, however, at any semi-final inspection any work is found unsatisfactory, in whole or in part, the Contractor shall be given the necessary instructions as to the replacement of material and performance or re-performance, of work necessary and prerequisite as to final completion and acceptance, and the Contractor forthwith shall comply and execute such instructions. When all materials have been furnished, all work performed and all construction contemplated by the contract satisfactorily completed, a written notice of final acceptance will be given to the Contractor.

17. TERMINATION

Leon County may terminate this Contract without cause, by giving the Contractor thirty (30) days written notice of termination. Either party may terminate this Contract for cause by giving the other party hereto thirty (30) days written notice of termination. The County shall not be required to give Contractor such thirty (30) day written notice if, in the opinion of the County, the Contractor is unable to perform its obligations hereunder, or if in the County's opinion, the services being provided are not satisfactory. In such case, the County may immediately terminate the Contract by mailing a notice of termination to the Contractor.

19. PUBLIC ENTITY CRIMES STATEMENT

In accordance with Section 287.133, Florida Statutes, Contractor hereby certifies that to the best of his knowledge and belief neither Contractor nor his affiliates has been convicted of a public entity crime. Contractor and his affiliates shall provide the County with a completed public entity crime statement form no later than January 15 of each year this agreement is in effect. Violation of this section by the Contractor shall be grounds for cancellation of this agreement by Leon County.

20. REVISIONS

In any case where, in fulfilling the requirements of this contract or of any guarantee, embraced in or required thereby it is necessary for the Contractor to deviate from the requirements of the bid, Contractor shall obtain the prior written consent of the County.

21. CONSTRUCTION

The validity, construction, and effect of this Contract shall be governed by the laws of the State of Florida.

SIGNATURES ON FOLLOWING PAGES

WHERETO, the parties have set their hands and seals effective the date whereon the last party executives this Agreement.

CONTRACTOR

WITNESS: _____ BY: _____
President

WITNESS: _____ DATE _____

(CORPORATE SEAL)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____.

By _____, of _____
(Name of officer or agent, title of officer or agent) (Name of corporation acknowledging)

a _____ corporation, on behalf of the corporation.
(State or place of incorporation)

He/she is personally known to me or has produced _____ as
identification. (type of identification)

Signature of Notary

Print, Type or Stamp Name of Notary

Title or Rank

Serial Number, If Any

LEON COUNTY, FLORIDA

BY: _____
Tony Grippa, Chairman
Board of County Commissioners

DATE: _____

ATTEST:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

By: _____

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

By: _____
Herbert W.A. Thiele, Esq.
County Attorney

BID SCHEDULE FOR TALPECO ROAD EWP
LEON COUNTY
3/6/2003

ITEM NO.	SUPPLIES/SERVICES	SPEC NO.	ESTIMATED QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Clearing and Grubbing	2	1	Job	\$ 9,000.00	\$ 9,000.00
2	Structure Removal	3	1	Job	\$ 1,200.00	\$ 1,200.00
3	Pollution Control:	5				
	Baled Hay or Straw	5	749	Ea	\$ 4.00	\$ 2,996.00
	Staked Silt Fence	5	2,062	Lin. Ft.	\$ 4.60	\$ 9,485.20
4	Construction Surveys (including construction stake out and as-built survey)	7	1	Job	\$ 4,500.00	\$ 4,500.00
5	Mobilization and Demobilization	8	1	Job	\$ 8,500.00	\$ 8,500.00
6	Traffic Control	9	1	Job	\$ 5,000.00	\$ 5,000.00
7	Removal of Water	11	1	Job	\$ 2,500.00	\$ 2,500.00
8	Earthfill, Class C, Borrow On-site	23	137	Cu. Yds.	\$ 12.00	\$ 1,644.00
9	Earthfill, Class C, Borrow Off-site	23	2,086	Cu. Yds.	\$ 14.00	\$ 29,204.00
10	Drainfill, DOT No. 57 Aggregate (Sub-surface Drain)	24	20.9	Cu. Yds.	\$ 30.00	\$ 627.00
11	Drainfill, ASTM C-33 Fine Aggregate (Sand diaphragm)	24	9.1	Cu. Yds.	\$ 22.00	\$ 200.20
12	Concrete, Class 4000M (Lined Waterway)	32	98.4	Cu. Yds.	\$ 45.00	\$ 4,428.00
13	Concrete Class 4000M, Inlet No.1 (FDOT Type D Ditch Bottom Inlet)	32	1.0	Job	\$ 3,500.00	\$ 3,500.00
14	Concrete Class 4000M, Inlet No.2 (FDOT Type D Ditch Bottom Inlet)	32	1.0	Job	\$ 3,500.00	\$ 3,500.00
15	Concrete Class 4000M, Inlet No.3 (FDOT Type D Ditch Bottom Inlet)	32	1	Job	\$ 3,500.00	\$ 3,500.00
16	Concrete Class 4000M, Inlet No.4 (FDOT Type D Ditch Bottom Inlet)	32	1	Job	\$ 3,350.00	\$ 3,350.00
17	Pipe, RCP, 18" Diameter	42	153.7	Lin. Ft.	\$ 36.00	\$ 5,533.20
18	Pipe, RCP, 24" Diameter	42	38.8	Lin. Ft.	\$ 120.00	\$ 4,656.00
19	Pipe, 6" Dia. HDPE, Perforated	45	138	Lin. Ft.	\$ 12.00	\$ 1,656.00
20	Pipe, 6" Dia. PVC, SCH 80, Perforated	45	51	Lin. Ft.	\$ 12.00	\$ 612.00
21	Loose Rock Riprap	61	109.8	Ton	\$ 45.00	\$ 4,941.00
22	Rock Bedding	61	36.6	Ton	\$ 40.00	\$ 1,464.00
23	Tree Barricade	83	1	Job	\$ 125.00	\$ 125.00
24	Geotextile	95	481	Sq. Yds.	\$ 5.00	\$ 2,405.00
25	Composite Turf Reinforcement	95	328	Sq. Yds.	\$ 7.00	\$ 2,296.00
26	Sand Cement Bag Riprap	208	8.3	Cu. Yds.	\$ 320.00	\$ 2,656.00
27	Vegetative Measures (Seeding)	440	0.0658	Ac.	\$ 1,500.00	\$ 98.70
28	Vegetative Measures Sodding (Argentine Bahia Grass)	440	2,870	Sq. Yds.	\$ 4.00	\$ 11,480.00
29	Soil Tracking Prevention Device	FDOT Standard Index 106	1	EA	\$ 3,500.00	\$ 3,500.00
TOTAL BID						\$ 134,557.30

Item 1: Tree removal is included in this pay item.

Item 8: This is the in-situ cut volume and the excavated materials may be used for fill.

Item 9: This is the fill volume in place and after compaction.

Item 18: The base repair, pavement, and all associated costs are also included in this pay item.

Item 19: This pay item is the Hancor 6" AASHTO Single Wall perforated pipe or equivalent products.

Item 26: This pay item includes sand cement bags, #4 rebar, placement, and all associated costs.

Item 27: This pay item includes water, fertilizer, seed, installation, and all work specified in the Construction Specifications.

Item 28: This pay item includes water fertilizer, sod, installation, and all work specified in the Construction Specifications.